

### **REMARKS**

In the Office Action, the Examiner rejects Claims 1-4 under 35 U.S.C. § 112 as being indefinite. Claims 1-4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over W.O. Pat. Pub. App. No. 97/45814 to Vazvan ("Vazvan") in view of U.S. Pat. Pub. App. No. 2001/0054087 to Flom et al. ("Flom"). Claims 5-10 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Vazvan in view of U.S. Pat. No. 5,933,812 to Meyer et al. ("Meyer").

Applicants have amended Claim 1 by deleting the word "the" prior to "initiation of a mobile payment session" in order to overcome the indefiniteness rejection and as such respectfully submit that the rejection under 35 U.S.C. § 112 of Claim 1 as well as Claim 2, which depends therefrom is overcome. Applicants have amended independent Claims 1, and 5 to further patentably distinguish the cited references. Claims 3 and 4 have been cancelled. New Claims 11 and 12 have been added. In light of the amendments and subsequent remarks, Applicants respectfully submit that the claims are in condition for allowance.

#### **Claims 1 and 2 are Patentably Distinct over the Cited References**

Independent Claim 1 is generally directed to a system for facilitating electronic payments using a mobile device enabled for short range proximity signaling and two way messaging. The system may comprise a proximity reader for interacting with a mobile device presented to the proximity reader and triggering initiation of a mobile payment session, such as when the mobile device is within range of a proximity communications means used by the proximity reader; a plurality of servers for providing authentication of a user and processing payments; a plurality of point of sale terminals to provide access to transaction information; and a messaging system for providing mobile commerce messaging with the user.

In order to further distinguish over the cited references, independent Claim 1 has been amended to include the recitation wherein the plurality of servers communicate with the user for purposes of authentication via voice. In this regard, the plurality of servers

may communicate with a user via the mobile device for purposes of authentication of the user or device using voice, such as integrated voice response or voice over internet protocol. *See, e.g.* Paragraphs 147-149 of the present application. This recitation is substantially the same as the recitation of Claim 4, which has been cancelled.

The Office Action of August 10, 2007 submits that Page 10, lines 33-39 of Vazan discloses a system wherein the server communicates with a user of a mobile device via voice. However, at most Vazan discloses a system wherein two mobile wallet-phones communicate data to one another over a radio frequency. The system of Vazan stands in stark contrast to the system claimed by amended independent Claim 1, wherein a server may call a mobile telephone number associated with the mobile device and audibly request an authentication code from the user, who may then submit an authentication code. As such, Vazan does not teach or suggest a plurality of servers that provide for authentication of a user via voice communication and Applicants respectfully submit that independent Claim 1 is patentably distinct over the cited references taken alone or in combination and the rejection of independent Claim 1 is overcome. Since dependent Claim 2 includes all of the recitations of Claim 1, applicants further submit that Claim 2 is patentably distinct over the cited references as well and the rejection thereof is also overcome.

Claims 5-11 are Patentably Distinct over the Cited References

Independent Claim 5 is generally directed to a method for facilitating the payment of products. In this regard, a mobile device enabled for short range proximity signaling and two way messaging is presented to a proximity reader. Identification information, such as that associated with the mobile device or a user of the mobile device, is provided to a payment system. Verification of the identity information by a payment system is received by the mobile device. A user using the mobile device then orders a plurality of products and receives an electronic bill for a total accumulated charge for the products on a display of the mobile device.

In order to further patentably distinguish independent Claim 5 over the cited combination of Vazvan and Meyer, Applicants have amended Claim 5 to include the

recitation that the verification of identity information received by the mobile device includes indicia of a unique transaction confirmation code. In this regard, once the identification information has been authenticated by the payment system, a unique transaction confirmation code is generated by the payment system and provided to the mobile device. The unique transaction confirmation code may only be used to confirm purchases made during the present transaction on the particular mobile device. Thus this provision of a unique transaction confirmation code provides for a multi-layered authentication process that requires the submission and authentication of at least two identifiers prior to the completion of a transaction. *See* at least paragraphs 150-153 as well as FIG. 15 of the present application. This multi-layered transaction authentication process stands in contrast to the method taught by Vazvan wherein a user needs only to provide a personal-payment identification number (P-PIN), which is uniquely associated with the user for authentication. *See, e.g.* Page 6, lines 9-25 and Page 9, lines 11-41 of Vazvan. Neither Vazvan nor Meyer, nor any combination thereof, teaches or suggests generating a unique transaction confirmation code for use to authenticate a purchase order made subsequent to authentication of the user using a PIN. As such, Applicants respectfully submit that independent Claim 5 is patentably distinct over the cited references taken alone or in combination and therefore the rejection is overcome and Claim 5 is in condition for allowance. Claims 6-11 include all of the recitations of independent Claim 5 and as such Applicants further submit that they are patentably distinct from the cited references taken alone or in combination. Therefore, Applicants respectfully submit that the rejection of Claims 6-10 is overcome for at least the above reasons and Claims 6-10 as well as new Claim 11 are in condition for allowance.

With regard to Claim 6, Applicants respectfully traverse the position of the Office Action that Vazvan discloses receiving a plurality of messages offering additional items to purchase on a display of the mobile device, adding a plurality of additional charges to the electronic bill, and approving of the total charge plus the plurality of additional charges as recited by Claim 6. Claim 6 is thus directed to a method wherein a user of a mobile device is presented with items for purchase in addition to items which the user has already selected to purchase and additional presented items which the user elects to

purchase result in adding additional charges to an accumulated total electronic bill. In contrast, Vazvan merely discloses the presentation and payment of a bill for a purchase that a user has already elected to make. As such, Applicants respectfully submit that Vazvan neither teaches nor suggests the presentation to a user of messages offering additional items to purchase and then adding additional charges to the electronic bill as recited by Claim 6.

New Claim 11 further describes the unique transaction confirmation code as discussed above in connection with Claim 5 and includes the further recitation of providing the unique transaction confirmation code to verify payment of the electronic bill. In this regard, then the unique transaction confirmation code is provided to authenticate the transaction as discussed above in connection with the multi-layered transaction authentication process. Support for Claim 11 may be found at least at Paragraphs 150-153 of the present application. None of the cited references taken alone or in combination teach or suggest the recitations of Claim 11. Therefore, Applicants respectfully submit that Claim 11 is patentably distinct over the cited references taken alone or in combination and is in condition for allowance.

New Claim 12 is Patentably Distinct over the Cited References

Applicants have also added new independent Claim 12, which is directed to an apparatus and which contains substantially the same recitations as amended independent Claim 5. Applicants therefore respectfully submit that it is patentably distinct over the cited references taken alone or in combination for at least the reasons discussed above in connection with Claim 5.

### CONCLUSION

In view of the amended claims and remarks presented above, it is respectfully submitted that all of the present claims of the present application are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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